

REMARKS

Prior to entry of the instant amendment, claims 1-55 were currently pending in the subject application, of which claims 5-11, 14, 15, 25-35, 39-41, 52, 53, and 55 are withdrawn. By the instant amendment, the specification and claims 1, 2, 5-17, 20, and 23-43 are amended; claims 2, 3, 18, 19, 21, 22, and 44-55 are canceled without prejudice to or disclaimer of the subject matter contained therein; and claims 56-67 are added. No new matter is added. Claims 1, 66, and 67 are independent.

Favorable reconsideration of this application, in light of the preceding amendments and following remarks, is respectfully requested.

Applicants note with appreciation the Examiner's acknowledgement that certified copies of all priority documents have been received by the U.S.P.T.O.

Applicants also appreciate the Examiner's indication that the Information Disclosure Statements filed on April 1, 2005 and June 24, 2005, have been considered.

Applicants also respectfully note that the present action does not indicate that the drawings have been accepted by the Examiner. Applicants respectfully request that the Examiner's next communication include an indication as to the acceptability of the filed drawings or as to any perceived deficiencies so that the Applicants may have a full and fair opportunity to submit appropriate amendments and/or corrections to the drawings.

Claims 1, 2, 5-17, 20, 23-43, and 56-67 are presented to the Examiner for further or initial prosecution on the merits.

Restriction Requirement/Election of Species

Applicants acknowledge the Examiner's withdrawal of claims 5-11, 14, 15, 25-35, 39-41, 52, 53, and 55 as being directed to a non-elected invention. However, since claim 1 is considered a generic claim, Applicants respectfully request the re-joinder of the non-elected claims when claim 1 is allowed. *See MPEP 821.04.*

Objections to the Specification

The Examiner objected to the specification for informalities. Accordingly, Applicants have amended the specification, particularly, the paragraph beginning on page 6, line 30, to obviate the objection. Withdrawal of the objection is respectfully requested.

Claim Objections

Claims 44, 45, and 47 are objected due to informalities. Accordingly, Applicants have either canceled and/or amended claims 44, 45, and 47, to obviate the objections. Withdrawal of the objections is respectfully requested.

Claim Rejections - 35 U.S.C. § 112

Claims 19, 20 and 53 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regards as the invention.

Applicants respectfully submit that claim 19 and claim 53 (now claim 65) have been amended, taking into consideration the Examiner's comments, to obviate the

rejections. Withdrawal of the rejections under § 112, second paragraph is respectfully requested.

Claim Rejections - 35 U.S.C. § 102

Claims 1, 2, 4, 12, 13, 18, 21-24, 42, 43, 46, 47 and 51 are rejected under 35 U.S.C. § 102(b) as being clearly anticipated by Japanese Patent No. 2001-231429 (hereinafter "Tachikawa"). Applicants respectfully traverse this rejection for the reasons discussed below.

Claim 1 has been amended to incorporate, *inter alia*, the subject matter of originally filed claims 3, 4, 18, 19, 21, and 22. No new matter is added, and support for amendments to claim 1 can be found in the application as originally filed, e.g., at page 2, lines 5-13, page 5, lines 16-19, etc.

Claim 1 now recites, as amended, *inter alia*,

the trap defines a chamber between an entrance and an end section, the end section supports arrangement of a bait in form of a scent source, a number of electrodes being at least three and the electrodes being arranged sequentially in the chamber, a first electrode being connected to a second electrode while a third electrode being electrically isolated from the first and second electrodes, the electrocuting being obtained by generating a high-voltage difference between the first and third electrodes, and a surface of the electrodes being rough.

The Tachikawa reference merely discloses a trap for catching and anaesthetizing animals, e.g., rats. The trap includes a housing 1 with an opening 10 in both ends. The openings are both closeable by means of a shutter 20, which is activated by two sensors s 2-1 and s 2-2. By this the animal will be trapped in the housing. At the bottom of the housing, there are two electrodes 4a, 4b (see FIGS. 5 and 7). The two electrodes 4a, 4b extend almost parallel to each other and are

intertwined. (It is not described in the description that there should be two set of electrodes, *viz.*, one set 4a, 4b to the right and a second set of electrodes 4a, 4b to the left). A circuit and an electronic control means process the detecting signals. By activating the electrodes 4a, 4b, the trapped animal is subjected to a shock, but apparently, not electrocuted.

Therefore, the Tachikawa reference *at least* fails to disclose “at least three electrodes.” In addition, because the Tachikawa reference fails to disclose or suggest at least three electrodes, it cannot teach or suggest, “a first electrode being connected to a second electrode while a third electrode being electrically isolated from the first and second electrodes, the electrocuting being obtained by generating a high-voltage difference between the first and third electrodes,” as recited in amended claim 1. For instance, the use of three electrodes, with the two first electrodes being connected to each other, ensures that the animal gets accustomed to the electrodes and is relatively far inside the trap before it is subject to a voltage difference.

Therefore, contrary to the Examiner's contention, the Tachikawa reference does not disclose or suggest each and every element of claim 1.

Since the Tachikawa reference fails to disclose each and every element of claim 1, it cannot provide a basis for a rejection under 35 U.S.C. § 102(b) and, thus, is allowable. Claims 2, 12, 13, 22-24, 42, 43, 46, 47 and 51 depend from amended claim 1 and, therefore, allowable for the similar reasons discussed above with respect to claim 1.

For at least these reasons, the Examiner is respectfully requested to reconsider and withdraw the § 102(b) rejection of claims 1, 2, 12, 13, 22-24, 42, 43, 46, 47 and 51.

Claim Rejections - 35 U.S.C. § 103

Claims 3 and 36-38 are rejected under 35 U.S.C. §103(a) as being unpatentable over Tachikawa in view of U.S. Patents Nos. 5,406,742 (hereinafter "Allen") and 2,763,092 (hereinafter "Sheridan"). Applicants respectfully traverse this rejection for the reasons discussed below.

Claims 3 and 36-38 are believed to be allowable for at least the reasons set forth above regarding claim 1. The Allen and the Sheridan references fail to provide the teachings noted above as missing from the Tachikawa reference.

In addition, the Allen reference relates to a trap having a housing 7 with a base 3, an angled ladder 4 and a food container 6. A control box 5 includes a power source providing a current to be passed through the ladder 4. When an animal grips the ladder 4, a current passes through the ladder 4 and the animal to the base 3.

The Sheridan reference relates to a trap with a horizontal trap door 24 and a vertical box-like body member 10, which is opened toward the trap door. At the top of the body member, a container 45 containing bait 48 is provided. In the body member 10, an L-shaped foot rest 40 is arranged. A current may be connected to the foot rest and pass through an animal trying to reach the bait from the trap door 24 by resting the forelegs on the foot rest.

Therefore, there is no motivation to combine the Tachikawa reference with the Allen and the Sheridan references.

Accordingly, since claims 3 and 36-38 are patentable at least by virtue of their dependency on allowable claim 1, Applicants respectfully request that the rejection of claims 3 and 36-38 under 35 U.S.C. § 103(a) be withdrawn.

Claims 16 and 17 are rejected under 35 U.S.C. §103(a) as being unpatentable over Tachikawa in view of U.S. Patents Nos. 6,609,328 (hereinafter "Swift") and 5,949,636 (hereinafter "Johnson"). Applicants respectfully traverse this rejection for the reasons discussed below.

Claims 16 and 17 are believed to be allowable for at least the reasons set forth above regarding claim 1. The Swift and the Johnson references fail to provide the teachings noted above as missing from the Tachikawa reference. Since claims 16 and 17 are patentable at least by virtue of their dependency on claim 1, Applicants respectfully request that the rejection of claims 16 and 17 under 35 U.S.C. § 103(a) be withdrawn.

Claims 19 and 20 are rejected under 35 U.S.C. §103(a) as being unpatentable over Tachikawa in view of U.S. Patents Nos. 2,465,686 (hereinafter "Hohler") and 2,411,766 (hereinafter "Vincent"). Applicants respectfully traverse this rejection for the reasons discussed below.

Initially, Applicants submit that the rejection of claim 19 is moot since claim 19 is canceled by this Amendment.

Nonetheless, claims 19 and 20 are believed to be allowable for at least the reasons set forth above regarding claim 1. The Hohler and the Vincent references fail to provide the teachings noted above as missing from the Tachikawa reference. Since claims 19 and 20 are patentable at least by virtue of their dependency on claim 1, Applicants respectfully request that the rejection of claims 19 and 20 under 35 U.S.C. § 103(a) be withdrawn.

Claims 44-49 and 54 are rejected under 35 U.S.C. §103(a) as being unpatentable over Tachikawa in view of U.S. Patent No. 6,445,301 (hereinafter "Farrell"). Applicants respectfully traverse this rejection for the reasons discussed below.

Initially, Applicants submit that the rejection of claims 44-49 and 54 are moot since claim 44-49 and 54 are canceled by this Amendment.

Nonetheless, claims 44-49 and 54 are believed to be allowable for at least the reasons set forth above regarding claim 1. The Farrell reference fails to provide the teachings noted above as missing from the Tachikawa reference. Since claims 44-49 and 54 are patentable at least by virtue of their dependency on claim 1, Applicants respectfully request that the rejection of claims 44-49 and 54 under 35 U.S.C. § 103(a) be withdrawn.

Claim 50 is rejected under 35 U.S.C. §103(a) as being unpatentable over Tachikawa in view of U.S. Patent Application Publication No. 2003/0213161. (hereinafter "Gardner"). Applicants respectfully traverse this rejection for the reasons discussed below.

Initially, Applicants submit that the rejection of claim 50 is moot since claim 50 is canceled by this Amendment.

Nonetheless, claim 50 is believed to be allowable for at least the reasons set forth above regarding claim 1. The Gardner reference fails to provide the teachings noted above as missing from the Tachikawa reference. Since claim 50 is patentable at least by virtue of its dependency on claim 1, Applicants respectfully request that the rejection of claim 50 under 35 U.S.C. § 103(a) be withdrawn.

CONCLUSION

In view of the above remarks and amendments, Applicants respectfully submit that each of the pending objections and rejections has been addressed and overcome, placing the present application in condition for allowance. A notice to that effect is respectfully requested. Further, the above remarks demonstrate the failings of the outstanding rejections, and are sufficient to overcome the rejections. However, these remarks are not intended to, nor need they, comprehensively address each and every reason for the patentability of the claimed subject matter over the applied prior art. Accordingly, Applicants do not contend that the claims are patentable solely on the basis of the particular claim elements discussed above.

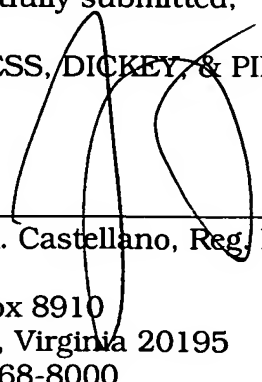
Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact the undersigned, at the telephone number below.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 08-0750 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17; particularly, extension of time fees.

Respectfully submitted,

HARNESS, DICKEY & PIERCE, P.L.C.

By



John A. Castellano, Reg. No. 35,094

P.O. Box 8910
Reston, Virginia 20195
(703) 668-8000

JAC/DJC:clc